law. *Coughenour* v. *Suhre*, 71 Pa. 462. See 4 WIGMORE, EVIDENCE, §§ 2443–2445. The third view applies the rule to negotiable instruments that is usually applied to collateral agreements concerning other writings, and admits extrinsic evidence on the theory that it does not alter the instrument but shows that the instrument was never enforceable. *Burke* v. *Dulaney*, 153 U. S. 228. The fourth view differs from the third in that it regards the instrument as enforceable but subject to the defense arising from the collateral agreement, extrinsic evidence of this defense being admitted as is extrinsic evidence of the defense, fraud. *Cf. American National Bank* v. *Cruger*, 44 S. W. 1057 (Tex. Civ. App.). The principal case illustrates the hardship resulting from strict conformation to the parol-evidence rule.

EVIDENCE — SIMILAR FACTS AND OCCURRENCES — POSSESSION OF GOODS OTHER THAN THOSE STOLEN. — The two defendants were indicted for larceny of jewelry to the value of $5,000. Evidence was admitted that, when arrested two months after the larceny charged, the defendants had in their possession jewelry to the value of $2,300, but none of the articles covered by the indictment. It appeared that defendants had no visible means of support. *Held*, that the evidence was properly admitted. *Commonwealth* v. *Coyne*, 117 N. E. 337 (Mass.).

Any evidence having probative value is admissible, unless it falls within some rule of exclusion. See 1 WIGMORE, EVIDENCE, § 10. See also J. B. Thayer, "Presumptions and the Law of Evidence," 3 HARV. L. REV. 141, 144. Admissibility is usually a question not of the sufficiency of the evidence, but of its fitness to be considered. See *Commonwealth* v. *Jeffries*, 89 Mass. 548, 566. See also 1 WIGMORE, EVIDENCE, §§ 28, 29. Logically relevant evidence is sometimes excluded, if its value is only remote. See MCKELVEY, EVIDENCE, 128. The value of the evidence in the principal case, and consequently its admissibility, depends somewhat on the financial condition of the defendant. Under the circumstances shown, it would seem to be admissible. See *Commonwealth* v. *Mulrey*, 170 Mass. 103, 110, 111, 49 N. E. 91, 94. This evidence does not fall within the rule of exclusion as creating unfair prejudice. See 1 WIGMORE, EVIDENCE, § 193. The decision seems to have the support of authority as well as principle. *Carr* v. *State*, 84 Ga. 250, 10 S. E. 626. *Cf. Commonwealth* v. *Montgomery*, 11 Met. (Mass.) 534. But *cf. United States* v. *Williams*, 168 U. S. 382, 396. See 1 WIGMORE, EVIDENCE, § 154, n.

EXTRADITION — INTERSTATE EXTRADITION UNDER THE UNITED STATES CONSTITUTION — FUGITIVE FROM JUSTICE: PRISONER BROUGHT FROM REQUISITIONING STATE BY EXTRADITION PROCEEDINGS. — Petitioner was arrested in Texas, charged with a crime against that state. Before trial, he was extradited to California on requisition from the governor. The California charge was not pressed; and the governor of California, acting on requisition from Texas, issued a warrant to extradite him to Texas. He applies for a writ of *habeas corpus*. *Held*, that the prisoner be discharged. *In re Whittington*, 167 Pac. 404 (Cal.).

Since there is no state statute covering the question, extradition is governed solely by the provisions of the federal constitution. *People ex rel. Corkran* v. *Hyatt*, 172 N. Y. 176, 64 N. E. 825; *In re Kopel*, 148 Fed. 505. The Constitution provides only for the surrender of persons who "flee from justice." U. S. CONST. Art. IV, § 2. *State* v. *Hall*, 115 N. C. 811, 20 S. E. 729; *People ex rel. Genna* v. *McLaughlin*, 145 App. Div. 513, 130 N. Y. Supp. 458. It is the function of the executive to deal with the problems of extradition, and hence to determine whether the person requisitioned is a fugitive. *Ex parte Reggel*, 114 U. S. 642; *Katyuga* v. *Cosgrove*, 67 N. J. L. 213, 50 Atl. 679. But the courts have jurisdiction to pass on the validity of the imprisonment, and the finding

of the governor is not conclusive, but may be treated by the court much as the finding of a jury. *Bruce* v. *Rayner*, 124 Fed. 481; *Robb* v. *Connolly*, 111 U. S. 624. Wherever the accused leaves the state of his own free will, he is conclusively regarded as a fugitive from justice, and his real motive for leaving will not be inquired into. *People ex rel. Draper* v. *Pinkerton*, 17 Hun (N. Y.) 199. Even where he was extradited into the state, he may yet be treated as a fugitive. *Hackney* v. *Welsh*, 107 Ind. 253, 8 N. E. 141. But it is difficult to conceive of a man, taken from a state by the arm of the law and continuously in custody, as a fugitive from that state. Hence the result reached by the court would seem to be sound. The case raises the same difficulty as the case of the extradition of a person for a crime which he committed, without being physically present in the state. *Ex parte Hoffstot*, 180 Fed. 240; *Wilcox* v. *Nolze*, 34 Ohio St. 520. The best remedy in such cases would seem to be state legislation. See 21 HARV. L. REV. 224.

INJUNCTION — TRADE UNIONS — UNLAWFUL MEANS. — The plaintiff, a mine owner, employed his men under a contract that they would not join a union while in his employ. The employment was terminable at will. The defendants, officers of the United Mine Workers, were endeavoring to induce plaintiff's employees to agree to join their union. *Held*, defendants are enjoined from further approaching plaintiff's employees inasmuch as they are inducing a breach of contract. *Hitchman Coal & Coke Co.* v. *Mitchell et al.*, 38 Sup. Ct. Rep. 65.

For a discussion of this case see Notes, p. 648.

INSURANCE — LIABILITY INSURANCE — RIGHT OF THE INSURER TO CONTROL LITIGATION. — Under a policy insuring plaintiff against accidents in the operation of his automobile, but imposing no obligation on the company to settle out of court, after the insured had been sued the insurer refused to make a settlement for a sum less than the limit of the policy unless the insured contributed to the settlement, threatening to allow the case to go to trial, and subject the insured to the hazard of having a verdict against him in excess of the limit of the policy. *Held*, plaintiff cannot recover money so paid. *Levin* v. *New England Casualty Co.*, 166 N. Y. Supp. 1055.

The policy commits to the insurer the decision whether to settle or defend. *Rumford Falls Paper Co.* v. *Fidelity & Casualty Co.*, 92 Me. 574, 43 Atl. 503; *C. Schmidt & Sons Brewing Co.* v. *Travelers' Ins. Co.*, 244 Pa. 286, 90 Atl. 653. But it should not be allowed to exercise this power *mala fides*, or for purposes of extortion. See *New Orleans & C. R. R.* v. *Casualty Co.*, 114 La. 154, 159, 38 So. 89, 92; *Wisconsin Zinc Co.* v. *Fidelity & Deposit Co.*, 162 Wis. 39, 54, 155 N. W. 1081, 1087. The facts of the main case suggest that the defendant was not acting in good faith. Therefore recovery should have been allowed under the principles governing a case of money received and held without consideration. See POLLOCK, CONTRACTS (WILLISTON'S WALD'S ed.), 732.

INSURANCE — RIGHT OF BENEFICIARY — WHETHER CONDITIONS OF RESERVED RIGHT TO CHANGE BENEFICIARY MUST BE STRICTLY COMPLIED WITH — WHETHER DIVORCE ACTS AS REVOCATION. — The plaintiff was the beneficiary of a life-insurance policy taken out by her husband. The policy had been delivered to her on an oral agreement to pay the premiums, which agreement she fulfilled. The insured had the right to change the beneficiary by delivering the original policy to the insurance company for indorsement. After divorce from the plaintiff, the insured, representing the original as lost, induced the defendant company to issue a new policy. His mother was beneficiary thereunder, and, after his death, recovered thereon. The plaintiff now sues